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PATENT
Attorney Docket No. 020375-045100US

TOWNSEND and TOWNSEND and CREW LLP

By: /Tara N. Damhoff/
Tara N. Damhoff

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Lisa C. Tidwell, et al.

Application No.: 10/731,294

Filed: December 9, 2003

For: SYSTEMS AND METHODS FOR
OBTAINING PAYOR INFORMATION
AT A POINT OF SALE

Confirmation No.: 3652

Examiner: Ramsey Refai

Art Unit: 3627

APPELLANTS' BRIEF UNDER
37 CFR §41.37

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Further to the Notice of Appeal mailed on November 13, 2008 for the above-referenced application, Appellants submit this Brief on Appeal.

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1. REAL PARTY IN INTEREST

The entire right in the above-referenced patent application has been assigned to First Data Corporation of Englewood, Colorado, which is the real party in interest.

2. RELATED APPEALS AND INTERFERENCES

A notice of appeal has been filed in the present application. There are no interferences that are related to the present application.

3. STATUS OF CLAIMS

Claims 1-24 are currently pending in the application and remain present for examination. Applicants respectfully request reconsideration of this application. Claims 1, 4, 10, 15, 21, and 23 are independent claims.

Claims 1-24 under 35 U.S.C. § 103(a) were rejected as being unpatentable over U.S. Patent No. 7,257,246 B1 issued to Brodie et al. ("**Brodie**"). Applicants respectfully request reconsideration of the rejection because the Examiner has failed to show a *prima facie* case of obviousness.

4. STATUS OF AMENDMENTS

A response to the Final Office Action dated August 18, 2008 was filed on October 20, 2008. This amendment was entered by the Examiner. A copy of the pending claims, after entry of the Amendment filed on October 20, 2008, is provided in the appendix, attached hereto.

5. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites:

1. *A point-of-sale device comprising:*
a display;
a keypad;
a communications interface; and

a computer processor in communication with the display, the keypad, and the communications interface, the computer processor configured to request location information about an employer who has issued a payroll check presented in association with a check-cashing transaction, the computer processor further configured to obtain from the keypad the employer location information and to transmit the employer location information to a remote location via the communications interface; the computer processor further configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with cashing the check, the computer processor further configured to display on the display a message based at least in part on the indication.

The system recited in claim 1 is described with reference to Figs. 1 and 11-12. A point-of-sale (POS) device 110 comprises a display, a keypad, a communications interface, and a computer processor. *See Application*, ¶¶ [0056]-[0059] and [0062]. The processor of the POS device 110 can request location information about an employer of the check presenter 101. *See Application*, ¶ [0060]. The check may be a payroll check. *See Application*, ¶ [0055]. The location information can be obtained from the keypad. *See Application*, ¶¶ [0249]-[0250]. The information, including the location information, is sent to a check authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. The processor of the POS device 110 receives the determined risk message and displays the risk on the display. *See Application*, ¶¶ [0285] and [0058].

Independent claim 4 recites:

4. *A point-of-sale device comprising:*
a communications interface;
an input system; and
a computer processor in communication with the communications interface and the input system, the computer processor configured to obtain from the input system location-related data about a check issuer associated with a check presented for processing and to

transmit to a remote location via the communications interface information about the location-related data; the computer processor further configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with processing the check.

The system recited in claim 4 is described with reference to Figs. 1 and 11-12. A point-of-sale (POS) device 110 comprises an input system, a communications interface, and a computer processor. *See Application*, ¶¶ [0056]-[0059] and [0062]. The processor of the POS device 110 can obtain location-related data about a check issuer. *See Application*, ¶ [0060]. The information, including the location information, is sent to a check authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. The processor of the POS device 110 receives the determined risk message. *See Application*, ¶¶ [0285] and [0058].

Independent claim 10 recites:

10. A method of processing a check transaction, the method comprising:
obtaining at a point-of-sale device location-related data about a check issuer
associated with a proposed check transaction;
transferring information about the check issuer to a remote location;
receiving at the point-of-sale device a recommendation about accepting the check
transaction based at least in part on a risk assessment which is based at least in part on the
information about the check issuer; and
displaying to an operator of the point-of-sale device an indication of the
recommendation.

The method recited in claim 10 is described with reference to Figs. 1 and 11-12. A point-of-sale (POS) device 110 obtains location-related data about a check issuer. *See Application*, ¶ [0060]. The information, including the location information, is transferred to a

check authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. The processor of the POS device 110 receives the determined risk message and displays the risk on the display. *See Application*, ¶¶ [0285] and [0058].

Independent claim 15 recites:

15. *A point-of-sale device comprising:
a communications interface;
an input system; and
a computer processor in communication with the communications interface and the input system, the computer processor configured to obtain from the input system data about a location associated with an issuer of a negotiable instrument presented in association with a financial transaction, wherein the computer processor is configured to transmit via the communications interface information about the issuer location; the computer processor further configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with the financial transaction.*

The system recited in claim 15 is described with reference to Figs. 1 and 11-12. A point-of-sale (POS) device 110 comprises an input system, a communications interface, and a computer processor. *See Application*, ¶¶ [0056]-[0059] and [0062]. The processor of the POS device 110 can obtain location-related data about an issuer of a negotiable instrument. *See Application*, ¶ [0060]. The information, including the location information, is sent to a check authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. The processor of the POS device 110 receives the determined risk message. *See Application*, ¶¶ [0285] and [0058].

Independent claim 21 recites:

21. *A method of processing a financial transaction, the method comprising:*

obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction;
transferring information about the issuer to a remote location; and
receiving at the point-of-sale device a recommendation about accepting the financial transaction based at least in part on a risk assessment which is based at least in part on the information about the issuer.

The method recited in claim 21 is described with reference to Figs. 1 and 11-12. A point-of-sale (POS) device 110 obtains location-related data about an issuer of a negotiable instrument. *See Application*, ¶ [0060]. The information, including the location information, is transferred to a check authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. The processor of the POS device 110 receives the determined risk message and displays the risk on the display. *See Application*, ¶¶ [0285] and [0058].

Independent claim 23 recites:

23. *A system for processing a financial transaction, the system comprising:*
means for obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction;
means for transferring information about the issuer to a remote location; and
means for receiving at the point-of-sale device a recommendation about accepting the financial transaction based at least in part on a risk assessment which is based at least in part on the information about the issuer.

The system recited in claim 23 is described with reference to Figs. 1 and 11-12. A means for obtaining at a point-of-sale location-related data obtains location-related data about an issuer of a negotiable instrument. *See Application*, ¶ [0060]. A means for transferring information, including the location information, transfers the information to a check

authorization system 100. *See Application*, ¶ [0251]. The check authorization system 100 processes the location information to determine a risk associated with the transaction. *See Application*, ¶¶ [0255]-[0271]. A means for receiving receives the determined risk message and displays the risk on the display. *See Application*, ¶¶ [0285] and [0058].

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether, under 35 U.S.C. §103(a), claims 1-24 are unpatentable over U.S. Patent No. 7,257,246 B1 issued to Brodie et al. ("**Brodie**").

A. Whether Brodie teaches "request location information about an employer who has issued a payroll check;" and

B. Whether Brodie teaches "obtain from the keypad the employer location information and to transmit the employer location information to a remote location."

7. ARGUMENT

I. Issue I:

The Office Action has rejected claims 1-24 as unpatentable over Brodie. The Patent Office is charged with putting forth a *prima facie* case showing of obviousness. Appellants believe a *prima facie* case of obviousness has not been properly set forth in the Office Action. To establish a *prima facie* case of obviousness, all claim limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). "All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (*citing In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). The Examiner must then provide an explicit analysis supporting the rejection. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) ("a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art"). While the Examiner can choose one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Examiner to demonstrate

that all the claim elements are shown in the prior art. *See* MPEP § 2143, Original Eighth Edition, August 2001, Latest Revision July 2008.

Appellants believe the rejection has flaws with the above test for obviousness. Notably, the Stein reference fails to teach each and every aspect of the claimed invention.

Teachings Missing from the Cited References

With regard to the obviousness rejection, Appellants believe that Brodie does not teach or suggest the invention in the claims. More specifically, Brodie fails to teach or suggest each of “request location information about an employer (or check issuer) who has issued a payroll check (or negotiable instrument),” and “obtain from the keypad (or input system) the employer (or issuer) location information and to transmit the employer (or issuer) location information to a remote location.” Therefore, Brodie does not describe all the limitations of the claims.

1. Claim 1:

Missing Limitation: “request location information about an employer who has issued a payroll check”

The Examiner states that this claim element is missing from Brodie. “[Brodie et al.] fails to teach . . . that *the location information about an employer who has issued a payroll check is obtained . . .*” *Office Action*, dated August 18, 2008, p. 4. The Examiner only states that it would have been obvious to include this feature in the system of Brodie. There is no reasoning and no reference provided proving this element is known in the prior art. *Id.* The motivation provided by the Examiner states that “it would have been obvious to one of ordinary skill in the art to modify Brodie et al.’s system to include this feature because doing so would allow for Brodie et al.’s system to cash payroll checks by verifying that the issuer of the check (employer) is a local company.” *Id.* Appellants believe this is an improper motivation to modify Brodie and will demonstrate as such hereinafter. Regardless, Examiner admits that Brodie does not teach this element of claim 1. For at least this reason, claim 1 is allowable over Brodie.

Missing Limitation: "obtain from the keypad the employer location information and to transmit the employer location information to a remote location"

The Examiner again states that this claim element is not shown in Brodie. "[Brodie et al.] fails to teach . . . that *the location information about an employer who has issued a payroll check is obtained and used for risk assessment . . .*" *Office Action*, dated August 18, 2008, p. 4. Again, there is no reasoning and no reference provided proving this element is known in the prior art. *Id.* The motivation provided by the Examiner states that "it would have been obvious to one of ordinary skill in the art to modify Brodie et al.'s system to include this feature because doing so would allow for Brodie et al.'s system to cash payroll checks by verifying that the issuer of the check (employer) is a local company." *Id.* Again, Appellants believe this is an improper motivation to modify Brodie and will demonstrate as such hereinafter. Examiner admits that Brodie does not teach this element of claim 1. For at least this reason, claim 1 is allowable over Brodie.

Official Notice

First, the Examiner has not stated that he is taking Official Notice. *See Office Action*, dated August 18, 2008, p. 2. Thus, the Appellants have assumed that the Examiner is asserting that certain material is described through the use of Official Notice. It appears that the Examiner is attempting to state that two things were well known at the time of the invention: 1) using payroll checks in check cashing; and 2) address information is printed on checks. *See Office Action*, dated August 18, 2008, p. 2. The failure of the Examiner to state that he is taking Official Notice violates the notice requirements in M.P.E.P. § 2144.03. However, Applicants respectfully traverse the taking of Official Notice by the Examiner. Applicants submit that the Examiner, according to M.P.E.P. § 2144.03, has improperly taken Official Notice. Specifically, M.P.E.P. § 2144.03 states:

In certain circumstances where appropriate, an examiner may take Official Notice of facts not in the record or rely on "common knowledge" in making a rejection, however such rejections should be judiciously applied. (*Emphasis added*).

Applicants respectfully submit that the Examiner has not judiciously applied the use of Official Notice (or common knowledge) in this situation. As will be shown below, the

standard for taking Official Notice without supporting documentary evidence or other support is rather high, and Applicants believe that the taking of Official Notice for the elements of claims fails to meet this standard.

M.P.E.P section 2144.03 states:

The standard of review applied to findings of fact is the “substantial evidence” standard under the Administrative Procedure Act (APA). See *In re Gartside*, 203 F.3d 1305, 1315, 53 USPQ2d 1769, 1775 (Fed. Cir. 2000). See also M.P.E.P. § 1216.01. In light of recent Federal Circuit decisions as discussed below and the substantial evidence standard of review now applied to USPTO Board decisions, the following guidance is provided in order to assist the examiners in determining when it is appropriate to take Official Notice of facts without supporting documentary evidence or to rely on common knowledge in the art in making a rejection, and if such Official Notice is taken, what evidence is necessary to support the examiner’s conclusion of common knowledge in the art. (*Emphasis added*).

The M.P.E.P. specifically states that the standard for findings of fact during prosecution is the “substantial evidence” standard. Further, subsections A, B, and C of M.P.E.P § 2144.03 are provided to assist Examiners in determining when it is appropriate to take Official Notice of facts without supporting documentary evidence. Hence, a detailed review of each of sub-sections A, B, and C will be undertaken to demonstrate that the Examiner has improperly taken Official Notice in the Office Action.

M.P.E.P section 2144.03(A), states:

Official notice without documentary evidence to support an examiner’s conclusion is permissible only in some circumstances. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute” (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)). In *Ahlert*, the court held that the Board properly took judicial notice that “it is old to adjust intensity of a flame in accordance with the heat requirement.”

It would not be appropriate for the examiner to take Official Notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.

It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. (Emphasis added).

As can be ascertained from the above-cited subsection of the M.P.E.P., the taking of Official Notice without supporting documentation is a rare occurrence and should only be taken in some limited circumstances. One such circumstance is when common knowledge in the art is "instant and unquestionable demonstration as being well-known" and "unquestionable demonstration as to defy dispute." Furthermore, the above cited subsection of the M.P.E.P. states that "[i]t is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based."

M.P.E.P section 2144.03(B), states:

In certain older cases, Official Notice has been taken of a fact that is asserted to be "common knowledge" without specific reliance on documentary evidence where the fact noticed was readily verifiable, such as when other references of record supported the noticed fact, or where there was nothing of record to contradict it.

The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to Official Notice so as to adequately traverse the rejection in the next reply after the Office action in which the common knowledge statement was made.

Therefore, to properly take Official Notice, the Examiner must meet four criteria before invoking the applicant's duty to respond. First, the information for which the Examiner is taking Official Notice must be the proper type of information, that is, the fact noticed is readily verifiable. Second, the Examiner must present the applicant with explicit basis on which the examiner regards the matter as subject to Official Notice. This basis must include some reasoning as to why the material is readily verifiable. Third, the other references of record must support the notified fact. Fourth, nothing of record can contradict the notified fact.

With regard to the first element, the material (e.g., use of payroll checks in check cashing and address information is included on checks) is not appropriate for a finding of Official Notice. It is not common sense that payroll checks are used in check cashing or that address information is included on checks. This information would require a recollection of information at the time of invention that would be subject to inaccuracies inherent in a person's memory. In other words, this information is not something some would inherently know. Further, it cannot be readily verifiable as other natural phenomenon. For example, it is readily verifiable that the sun rose at 6:44 a.m. on September 14, 2008. Applicants are not aware of and were not presented with any way to determine that the noticed fact is readily verifiable. The Examiner did not indicate where or how Applicants could verify the noticed fact.

With regard to the second element of the test, the Examiner must provide a basis for why using payroll checks in check cashing or printing address information on checks is well known. The Examiner has not presented any other references to support the taking of Official Notice. Indeed, all the Examiner states is that "It is well known that issuer information such as address information is printed on checks." *Office Action*, p. 2. The Examiner never explains why this is well known. The Examiner simply has not fulfilled his duty with regard to this requirement.

With regard to the third element, Applicants believe that the record does in fact contradict the taking of Official Notice. The very art cited by the Examiner, Brodie, makes no mention of location information. Indeed, Brodie states:

The check-cashing apparatus can have one or more input devices (e.g., keyboard, card reader, and check reader) for receiving check data and identification data (e.g., a driver's license number) from a user. In one embodiment, the check cashing apparatus included a check scanner for capturing an image of a check presented by the user. The image includes one or more data fields (e.g., *legal amount, courtesy amount, payee, signature, endorsement, date and check type*). The check-cashing apparatus can also have a card reader, which can be used to capture data from a membership card, identification card, and/or driver's license. The check-cashing apparatus can also include a device for capturing biometric information of the user (e.g., fingerprint, retinal scan, photo or a DNA analysis, etc.).

Brodie, col. 2, lines 8-21 (*emphasis added*).

Nowhere in the cited section does Brodie mention a request for location information of the employer. The Examiner attempts to equate "check data" with location information. However, nowhere in the entire disclosure of Brodie is there mention of the employer's location being part of the check data. Brodie actually states "The imaging software, administered by the host, server, check-cashing administrative entity, or another administrative entity, reviews the key fields on each submitted check, including, but not limited to, legal amount, courtesy amount, payee, signature line, endorsement, date and check type." *Brodie*, col. 10, lines 52-57. Brodie says nothing about issuer location information being requested or input and belies the Examiner's claim that requesting issuer location information is actually well known. Thus, the record does not bolster the Examiner's contention that requesting issuer location is well known.

Lastly, with regard to the fourth element, Applicants submit that there is information that does contradict the Examiner's contention. As shown, Brodie, the cited art, makes no mention of issuer location information. Furthermore, in a search of the USPTO database for issued patents using the search string "SPEC/((risk AND cashing) AND (check AND "issuer location"))," the only two patents that were found were U.S. Patent No. 7,398,925 and 7,287,629, which are both related to the present application. Thus, there appears to be little support in the prior art for the Examiner's contention that requesting location information is well known. The Final Office Action simply states that the notified facts are "notoriously well known in the art." *Office Action*, dated August 18, 2008, p. 2. Applicants submit that "well known in the art" is not a proper basis to rely on for taking Official Notice. Indeed, it is not a basis at all.

M.P.E.P section 2144.03(C) states:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. (*Emphasis added*).

To trigger the Applicants' need to respond to a finding of Official Notice, the Official Notice must be proper. Applicants submit that the errors in the Examiner's action have been specifically pointed out (*see* above comments). As such, Applicants are not required to

point out specific errors in the finding of Official Notice. However, some specific reasons why the notified fact is not common knowledge were presented above. Accordingly, Applicants respectfully request that the Examiner must support all findings with adequate evidence as required by M.P.E.P. section 2144.03(c), or that the Official Notice be withdrawn and the claims allowed.

It should also be noted that even if the material stated as being well known, that is, using payroll checks in check cashing and printing address information on checks, the claim elements are still not shown. Indeed, something must show "request location information about an employer who has issued a payroll check." There is no mention of making a request for location information about an employer. Indeed, there is no mention of making an request for information, much less a request for location information. The idea that location information is available does not prove that that information is requested. Further, nothing shows obtaining location information from the keypad. Indeed, Brodie only shows obtaining check data from the image scanner. See Brodie, col. 2, lines 11-13. Nothing in Brodie describes obtaining location information from the keypad. Thus, even with the taking of Official Notice, the Examiner has still not shown all the elements of claim 1 is described in the art.

Motivation to Combine

The Supreme Court in *KSR* specifically stated that obviousness is shown only if "the subject matter *as a whole* would have been obvious at the time the invention was made." *KSR*, 127 S. Ct. at 1734 (*emphasis added*). In other words, the Examiner must provide a motivation to combine the references together to make the subject matter of the entire claim. "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP 2141.02, citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

Here, the Examiner has provided a motivation only to change Brodie to add the missing limitations, not a motivation to create the subject matter of the entire claim. Indeed, the Examiner motivation that "doing so would allow for Brodie et al.'s system to cash payroll checks

by verifying that the issuer of the check (employer) is a local company," only motivates someone to add missing elements and not create the subject matter of the entire claim. Further, the Examiner's motivation is not a motivation at all. The question is not whether Brodie et al.'s system is allowed to verify the issuer is a local company, but why would someone of the art want to verify that the issuer is a local company. In other words, the Examiner has not provided an actual motivation. Thus, the Examiner's stated motivations or lack thereof is improper and defeats the Examiner's attempt to provide a *prima facie* case of obviousness.

For at least this reason, claim 1 is allowable over the cited art.

2. Claims 2-3:

Claims 2-3 each depend, either directly or indirectly, from allowable independent claim 1. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 2-3 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

3. Claim 4:

Claim 4 includes the same or similar limitations to allowable claim 1. For example, claim 4 includes similar elements: "computer processor configured to obtain from the input system location-related data about a check issuer associated with a check presented for processing," and "transmit to a remote location via the communications interface information about the location-related data." Thus, claim 4 is allowable over the cited art for the same or similar reasons.

4. Claims 5-9:

Claims 5-9 each depend, either directly or indirectly, from allowable independent claim 4. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d

1596 (Fed. Cir. 1988)). Therefore, claims 5-9 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

5. Claim 10:

Claim 10 includes the same or similar limitations to allowable claim 1. For example, claim 10 includes similar elements: "obtaining at a point-of-sale device location-related data about a check issuer associated with a proposed check transaction," and "transferring information about the check issuer to a remote location." Thus, claim 10 is allowable over the cited art for the same or similar reasons.

6. Claim 11-14:

Claims 11-14 each depend, either directly or indirectly, from allowable independent claim 10. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 11-14 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

7. Claim 15:

Claim 15 includes the same or similar limitations to allowable claim 1. For example, claim 15 includes similar elements: "the computer processor configured to obtain from the input system data about a location associated with an issuer of a negotiable instrument presented in association with a financial transaction," and "transmit via the communications interface information about the issuer location." Thus, claim 15 is allowable over the cited art for the same or similar reasons.

8. Claim 16-20:

Claims 16-20 each depend, either directly or indirectly, from allowable independent claim 15. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d

1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claims 16-20 are also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

9. Claim 21:

Claim 21 includes the same or similar limitations to allowable claim 1. For example, claim 21 includes similar elements: "obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction," and "transferring information about the issuer to a remote location." Thus, claim 21 is allowable over the cited art for the same or similar reasons.

10. Claim 22:

Claim 22 depends directly from allowable independent claim 21. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Therefore, claim 22 is also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

11. Claim 23:

Claim 23 includes the same or similar limitations to allowable claim 1. For example, claim 23 includes similar elements: "means for obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction," and "means for transferring information about the issuer to a remote location." Thus, claim 23 is allowable over the cited art for the same or similar reasons.

12. Claim 24:

Claim 24 depends directly from allowable independent claim 23. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." M.P.E.P. § 2143.02 (*citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)). Therefore, claim 24 is also allowable over the cited art due, at least in part, to this dependence on an allowable base claim.

13. CONCLUSION

Appellant believes that the above discussion is fully responsive to all grounds of rejection set forth in the Final Office Action dated August 18, 2008. Please deduct the requisite fees, pursuant to 37 C.F.R. § 1.17(f) from Deposit Account 20-1430 and any additional fees associated with this Appeal Brief.

For these reasons, it is respectfully submitted that the rejection should be reversed.

If, for any reason, the Examiner believes a telephone conference would in any way expedite resolution of the issues raised in this appeal, the Examiner is invited to telephone the undersigned attorney at (303) 571-4000.

Respectfully submitted,



Tadd F. Wilson
Reg. No. 54,544

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422
T3W:s5s
61754060 v1

9. CLAIMS APPENDIX

1. (Rejected) A point-of-sale device comprising:
a display;
a keypad;
a communications interface; and
a computer processor in communication with the display, the keypad, and the communications interface, the computer processor configured to request location information about an employer who has issued a payroll check presented in association with a check-cashing transaction, the computer processor further configured to obtain from the keypad the employer location information and to transmit the employer location information to a remote location via the communications interface; the computer processor further configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with cashing the check, the computer processor further configured to display on the display a message based at least in part on the indication.
2. (Rejected) The point-of-sale device of Claim 1, wherein the display is configured to display a prompt to an operator of the point-of-sale device requesting the location information about the employer.
3. (Rejected) The point-of-sale device of Claim 2, wherein the display is configured to display the prompt in response to a message received from the check authorization system via the communications interface.
4. (Rejected) A point-of-sale device comprising:
a communications interface;
an input system; and
a computer processor in communication with the communications interface and the input system, the computer processor configured to obtain from the input system location-related data about a check issuer associated with a check presented for processing and to transmit

to a remote location via the communications interface information about the location-related data; the computer processor further configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with processing the check.

5. (Rejected) The point-of-sale device of Claim 4, wherein the input system comprises at least one of a keypad, a voice recognition system, a touchscreen, an optical character reader, a scanner, a smartcard reader, and a stylus.

6. (Rejected) The point-of-sale device of Claim 4, wherein the information about the check issuer that the computer processor is configured to transmit comprises information about a company name associated with the check issuer.

7. (Rejected) The point-of-sale device of Claim 4, wherein the information about the check issuer that the computer processor is configured to transmit comprises information about a company location associated with the check issuer.

8. (Rejected) The point-of-sale device of Claim 4, further comprising a display, wherein the computer processor is in communication with the display and is configured to display on the display a message based at least in part on the indication.

9. (Rejected) The point-of-sale device of Claim 4, wherein processing the check comprises cashing the check.

10. (Rejected) A method of processing a check transaction, the method comprising:

obtaining at a point-of-sale device location-related data about a check issuer associated with a proposed check transaction;

transferring information about the check issuer to a remote location;

receiving at the point-of-sale device a recommendation about accepting the check transaction based at least in part on a risk assessment which is based at least in part on the information about the check issuer; and

displaying to an operator of the point-of-sale device an indication of the recommendation.

11. (Rejected) The method of Claim 10, wherein obtaining location-related data about the check issuer comprises reading a magnetic ink character recognition (MICR) line from the check.

12. (Rejected) The method of Claim 10, wherein obtaining location-related data about the check issuer comprises scanning an image of at least a portion of a check associated with the check transaction.

13. (Rejected) The method of Claim 12, further comprising using optical character recognition (OCR) technology to obtain information about the check issuer from the scanned image.

14. (Rejected) The method of Claim 10, wherein obtaining location-related data about the check issuer comprises requesting the location-related data from a presenter of a check associated with the check transaction.

15. (Rejected) A point-of-sale device comprising:
a communications interface;
an input system; and
a computer processor in communication with the communications interface and the input system, the computer processor configured to obtain from the input system data about a location associated with an issuer of a negotiable instrument presented in association with a financial transaction, wherein the computer processor is configured to transmit via the communications interface information about the issuer location; the computer processor further

configured to receive via the communications interface from a check authorization system an indication of a level of risk associated with the financial transaction.

16. (Rejected) The point-of-sale device of Claim 15, wherein the financial transaction comprises cashing a negotiable instrument.

17. (Rejected) The point-of-sale device of Claim 16, wherein the negotiable instrument is a money order, a traveler's check, a personal check, a corporate check, company insurance refund check, a government check, such as a tax refund check, Social Security check, payroll check, or other government-issued check, a bank check, official check, or a convenience check.

18. (Rejected) The point-of-sale device of Claim 15, further comprising a display, wherein the computer processor is in communication with the display and wherein the computer processor is further configured to display on the display a message based at least in part on the indication.

19. (Rejected) The point-of-sale device of Claim 18, wherein the display is further configured to display a prompt to an operator of the point-of-sale device requesting the data about the issuer.

20. (Rejected) The point-of-sale device of Claim 18, wherein the display is configured to display the prompt in response to a message received from the check authorization system via the communications interface.

21. (Rejected) A method of processing a financial transaction, the method comprising:

obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction;

transferring information about the issuer to a remote location; and

receiving at the point-of-sale device a recommendation about accepting the financial transaction based at least in part on a risk assessment which is based at least in part on the information about the issuer.

22. (Rejected) The method of Claim 21, further comprising displaying to an operator of the point-of-sale device an indication of the recommendation.

23. (Rejected) A system for processing a financial transaction, the system comprising:

means for obtaining at a point-of-sale device location-related data about an issuer of a negotiable instrument associated with a proposed financial transaction;

means for transferring information about the issuer to a remote location; and

means for receiving at the point-of-sale device a recommendation about accepting the financial transaction based at least in part on a risk assessment which is based at least in part on the information about the issuer.

24. (Rejected) The system of Claim 23, further comprising means for displaying to an operator of the point-of-sale device an indication of the recommendation.

10. EVIDENCE APPENDIX

No evidence has been submitted in this application under 37 CFR § 1.130, 1.131, or 1.132. As such, no evidence is provided in this appendix.

11. RELATED PROCEEDINGS APPENDIX

As explained in Section 2, there are no other appeals or interferences that are related to the present application and will directly affect, or be directly affected by, or have a bearing on the board decision of the pending appeal. As such, no information is provided in this appendix.